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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,338	10/02/2000	Jeffrey P. Kubala	POU920000176US1	3544

7590 03/30/2004
William A Kinnaman Jr
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EXAMINER

SHAH, NILESH R

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/677,338

Applicant(s)

KUBALA ET AL.

Examiner

Nilesh R Shah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-15 are presented for examination.
2. The cross reference related to the application cited in the specification must be updated (i.e. updated the relevant status, with PTO serial numbers or patent numbers where appropriate, on pages 2-4. The entire specification should be so revised).
3. Applicant fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. (Specifically non – patent literature listed on page 3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - a. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claim 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breddan (4,489,386) in view of Beelitz (6,032,239).

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6. As per claim 1, Breddan teaches the invention substantially as claimed including a method comprising the steps of:

determining the actual consumption of specified system resources (col. 4 lines 24-30);

comparing said actual consumption with a specified permitted consumption for said resources(col. 1 lines 10-15, col. 4 lines 24-30) and

reducing said actual consumption of said resources to said specified permitted consumption if said actual consumption exceeds said permitted consumption (col. 1 lines 15-18, col. 9 lines 3-20). Breddan does not specifically teach the use of different logical partitions.

7. Beelitz teaches the use of having different partitions with different resources (col. 2 lines 56-65) for upgrading, adding, deleting or changing the partition or resources on an exiting hard drive (col. 3 lines 10-20). It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Beelitz and Breddan in order to provide an efficient system. By reducing a particular partition that has hit its permitted consumption the entire system can run more efficient because one partition won't be bogged down with resources when it has reached it limit.

8. As per claim 2, Beelitz teaches a method in which said specified system resources are processor resources (col. 2 lines 56-65).

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9. As per claim 3, Breddan teaches a method in which said actual consumption is determined by averaging said consumption over a plurality of time intervals (col. 3 lines 19-41).
10. As per claim 4 Breddan, teaches the use of a information handling system that specifying a maximum allowed consumption of said resources (col. 1 lines 15-18, col. 9 lines 3-20) measuring an actual consumption (col. 1 lines 15-18, col. 9 lines 3-20) comparing said actual consumption with said maximum allowed consumption to determine whether said actual consumption exceeds said maximum allowed consumption and if said actual consumption exceeds said maximum allowed consumption, reducing said actual consumption of said resources to said maximum allowed consumption (col. 1 lines 15-18, col. 4 lines 13-24, col. 9 lines 3-20).
11. Breddan does not specifically teach the use of different logical partitions.
12. Beelitz teaches the use of having different partitions with different resources (col. 2 lines 56-65) for upgrading, adding, deleting or changing the partition or resources on an exiting hard drive (col. 3 lines 10-20). It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Beelitz and Breddan in order to provide an efficient system. By reducing a particular partition that has hit its permitted consumption the entire system can run more efficient because one partition won't be

bogged down with resources when it has reached its limit.

13. As per claim 5, Breddan, teaches the use of an information handling system that specifying a maximum allowed consumption of said resources (col. 1 lines 15-18, col. 9 lines 3-20).

14. Breddan does not specifically teach the use of different logical partitions.

15. Beelitz teaches the use of having different partitions with different resources (col. 2 lines 56-65) for upgrading, adding, deleting or changing the partition or resources on an existing hard drive (col. 3 lines 10-20).

16. As per claim 6, Beelitz teaches a method in which said group of logical partitions comprises all of the logical partitions on said physical machine (col. 2 lines 56-65, col. 4 lines 7-17).

17. As per claims 7 and 8, Beelitz teaches a method in which each of the logical partitions in said group is assigned different status such as a primary, first extended, seconded (table 1) or inactive active (col. 3 lines 1-6). The examiner takes official notice that the uses of weights within partitions are well known in the art.

18. As per claim 9, Beelitz teaches a method in which said specified system resources are processor resources (col. 2 lines 56-65).

19. As per claim 10, Breddan teaches a method in which said actual consumption is determined as a rolling average of said consumption over a predetermined time interval (col. 3 lines 19-41).
20. As per claim 9, Beelitz teaches a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine (col. 2 lines 33-40, col. 2 lines 56-65).
21. Claim 12-15 are rejected based on previous rejections for claims 4, 5, 7, 8 respectfully.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nilesh R Shah whose telephone number is 703-305-8105. The examiner can normally be reached on Monday-Friday 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

NS

January 16, 2004


MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
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